

AMENDED IN SENATE APRIL 23, 2003

SENATE BILL

No. 1064

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Sections ~~23701h~~ 17941, 23701h, and 23701x of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as amended, Committee on Revenue and Taxation. Corporation taxes: exempt organizations.

The Corporation Tax Law specifies the types of title-holding companies that are exempt from the taxes imposed by that law.

This bill would provide that for purposes of those exemptions, the term "corporation" includes limited liability companies, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 23701h of the Revenue and Taxation~~
2 ~~Code is amended to read:~~
3 ~~23701h.—A corporation described in Section 501(c)(2) of the~~
4 ~~Internal Revenue Code, relating to certain title-holding~~
5 ~~companies. For purposes of applying Section 501(c)(2) of the~~
6 ~~Internal Revenue Code under this section, the term "corporation"~~
7 ~~includes a limited liability company, whether classified as an~~

1 ~~association taxable as a corporation, as a partnership, or as a~~
2 ~~disregarded entity.~~

3 ~~SEC. 2. Section 23701x of the Revenue and Taxation Code is~~
4 ~~amended to read:~~

5 ~~23701x. A corporation or trust described in Section~~
6 ~~501(c)(25) of the Internal Revenue Code, relating to certain~~
7 ~~title holding companies. For purposes of applying Section~~
8 ~~501(c)(25) of the Internal Revenue Code under this section, the~~
9 ~~term “corporation” includes a limited liability company, whether~~
10 ~~classified as an association taxable as a corporation, as a~~
11 ~~partnership, or as a disregarded entity.~~

12 ~~SEC. 3.—~~

13 *SECTION 1. Section 17941 of the Revenue and Taxation Code*
14 *is amended to read:*

15 17941. (a) For each taxable year beginning on or after
16 January 1, 1997, every limited liability company doing business
17 in this state (as defined in Section 23101) shall pay annually to this
18 state a tax for the privilege of doing business in this state in an
19 amount equal to the applicable amount specified in paragraph (1)
20 of subdivision (d) of Section 23153 for the taxable year.

21 (b) (1) In addition to any limited liability company which is
22 doing business in this state and is therefore subject to the tax
23 imposed by subdivision (a), for each taxable year beginning on or
24 after January 1, 1997, a limited liability company shall pay
25 annually the tax prescribed in subdivision (a) if articles of
26 organization have been accepted, or a certificate of registration has
27 been issued, by the office of the Secretary of State. The tax shall
28 be paid for each taxable year, or part thereof, until a certificate of
29 cancellation of registration or of articles of organization is filed on
30 behalf of the limited liability company with the office of the
31 Secretary of State.

32 (2) If a taxpayer files a return with the Franchise Tax Board that
33 is designated as its final return, the Franchise Tax Board shall
34 notify the taxpayer that the annual tax shall continue to be due
35 annually until a certificate of cancellation is filed with the
36 Secretary of State pursuant to Section 17356 or 17455 of the
37 Corporations Code.

38 (c) The tax assessed under this section shall be due and payable
39 on or before the 15th day of the fourth month of the taxable year.

(d) For purposes of this section, “limited liability company” means any organization, *other than a limited liability company that is exempt from the tax and fees imposed under this chapter pursuant to Section 23701h or Section 23701x*, that is formed by one or more persons under the law of this state, any other country, or any other state, as a “limited liability company” and that is not taxable as a corporation for California tax purposes.

SEC. 2. Section 23701h of the Revenue and Taxation Code is amended to read:

23701h. (a) A corporation described in Section 501(c)(2) of the Internal Revenue Code, relating to certain title-holding companies.

(b) (1) *Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b) of Section 23038, for purposes of applying Section 501(c)(2) of the Internal Revenue Code under this section, the term “corporation” includes a limited liability company that is classified as a partnership or as a disregarded entity.*

(2) *A limited liability company that, under the authority of this section, is exempt from the tax imposed by this part is also exempt from the tax and fees imposed under Chapter 10.6 (commencing with Section 17941) of Part 10.*

SEC. 3. Section 23701x of the Revenue and Taxation Code is amended to read:

23701x. (a) A corporation or trust described in Section 501(c)(25) of the Internal Revenue Code, relating to certain title-holding companies.

(b) (1) *Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b) of Section 23038, for purposes of applying Section 501(c)(25) of the Internal Revenue Code under this section, the term “corporation” includes a limited liability company that is classified as a partnership or as a disregarded entity.*

(2) *A limited liability company that, under the authority of this section, is exempt from the tax imposed by this part is also exempt from the tax and fees imposed under Chapter 10.6 (commencing with Section 17941) of Part 10.*

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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